

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA

In Re:

DENNIS E. HECKER,

Debtor.

ALLIANCE BANK

Plaintiff,

v.

DENNIS E. HECKER,

Defendant.

Case No. 09-50779

Chapter 7

Hon. Robert J. Kressel

Adv. Pro. No. 09-05038

**ALLIANCE BANK'S NOTICE OF JOINDER WITH THE EXPEDITED
HEARING AND JOINT MOTION OF U.S. BANK NATIONAL ASSOCIATION,
CARLTON FINANCIAL CORPORATION, GELCO CORPORATION D/B/A GE
FLEET SERVICES, CORNERSTONE BANK, VISION BANK, HYUNDAI
CAPITAL AMERICA, AND DENNIS E. HECKER TO STAY ADVERSARY
PROCEEDINGS PENDING RESOLUTION OF CHAPTER 7 TRUSTEE'S
SECTION 727 PROCEEDING**

TO: The debtor and other entities specified in Local Rule 9013-3.

1. Adversary Plaintiffs U.S. Bank National Association, Carlton Financial Corporation, GELCO Corporation d/b/a GE Fleet Services, Cornerstone Bank, Vision Bank, Hyundai Capital America (the "Adversary Plaintiffs") and Debtor Dennis E. Hecker (collectively the "Movants") have given notice of Expedited Hearing and Joint Motion to Stay Adversary Proceedings Pending Resolution of Chapter 7 Trustee's Section 727 Proceeding ("the Motion"). Alliance Bank, as a similarly situated

Adversarial Plaintiff, and in the interest of judicial efficiency and economy, joins with the Movants for the relief requested in the Motion.

2. The Court will hold a hearing on the Motion at 10:00 A.M. on December 16, 2009, in Courtroom No. 8 West, at the United States Courthouse, at 300 South Fourth Street, in Minneapolis, Minnesota, or as soon thereafter as counsel may be heard, and Alliance Bank respectfully requests that it be heard along with the Movants at this time.

3. As the Motion requests relief on an expedited basis, any response to the Motion must be filed and served by delivery as soon as possible and suggestion is made that a response should be filed at least twenty-four (24) hours prior to the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005, and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on June 4, 2009.

5. The Motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9006-1, 9013-1, 9013-2 and 9017-1.

6. In September, Alliance Bank and the other Adversarial Plaintiffs commenced adversary proceedings against the Debtor seeking a determination of dischargeability of all or a portion of the Debtor's debts to them. *See* 09-50779 ECF #183; 173; 177; 182; 184; 185 and 186. The Court has entered Orders for Trial in each Adversary Proceeding. *See* 09-05038 ECF #15 (Alliance Bank Trial, 4/19/2010); 09-05035 ECF #8 (Cornerstone Trial, 1/12/2010); 09-05036 ECF #14 (Carlton Trial,

\$/12/2010); 09-05040 ECF #13 (U.S. Bank Trial, 2/25/2010); 09-05041 ECF #15 (Hyundai Trial, 2/8/2010); 09-05039 ECF #15 (GELCO Trial, 5/10/2010); and 09-05037 ECF #10 (Vision Bank Trial, 1/26/2010).

7. Chrysler Financial Services Americas LLC has also filed a non-dischargeability complaint against the Debtor.

8. The Chapter 7 Trustee has stipulated twice with the Debtor to extend his time to file a complaint objecting to the Debtor's discharge. *See* 09-50779 ECF #103 (extending the deadline through November 19, 2009); and ECF #270 (extending the deadline through January 15, 2010).

9. Alliance Bank and the Movants expect the Chapter 7 Trustee to file a complaint objecting to the Debtor's discharge on or before the January deadline.

10. In the event that the Court denies the Debtor his discharge, Alliance Bank's, and the other Adversarial Plaintiffs', nondischargeability determination will be rendered moot. Accordingly, Alliance Bank joins in with the Movants's request that the Adversary Proceedings be stayed until the resolution of the Chapter 7 Trustee's complaint objecting to the Debtor's discharge to avoid unnecessary time and expense.

11. No party shall be prejudiced by the Court's grant of the relief requested by the Motion. The Debtor has joined the Motion and counsel for the Chapter 7 Trustee has indicated that he will not oppose it.

WHEREFORE, for the above reasons and those set forth in the Memorandum filed herewith, Alliance Bank joins with the Movants and moves the Court for entry of an

order (i) staying the Adversary Proceedings; and (ii) granting such other relief as may be just and equitable.

Dated: December 8, 2009

GREENE ESPEL, P.L.L.P.

By /s/Kathleen K. Statler
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Kathleen K. Statler, Reg. No. 161809

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Attorneys for Alliance Bank

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**ALLIANCE BANK'S MEMORANDUM IN SUPPORT OF ITS JOINDER WITH
THE JOINT MOTION OF U.S.BANK NATIONAL ASSOCIATION, CARLTON
FINANCIAL CORPORATION, GELCO CORPORATION D/B/A GE FLEET
SERVICES, CORNERSTONE BANK, VISION BANK, HYUNDAI CAPITAL
AMERICA, AND DENNIS E. HECKER TO STAY ADVERSARY
PROCEEDINGS PENDING RESOLUTION OF CHAPTER 7 TRUSTEE'S
SECTION 727 PROCEEDING**

Alliance Bank joins with U.S. Bank National Association, Carlton Financial Corporation, GELCO Corporation d/b/a GE Fleet Services, Cornerstone Bank, Vision Bank, Hyundai Capital America ("the Adversary Plaintiffs") and Dennis E. Hecker (collectively "the Movants"), in their Memorandum in support of their Joint Motion to Stay Adversary Proceedings Pending Resolution of Chapter 7 Trustee's Section 727 Proceeding ("the Joint Memorandum").

FACTS

The allegations and the defined terms in Alliance Bank's Motion and the motion of the Movants are expressly incorporated herein. Unless otherwise noted, all capitalized terms have the same meanings as ascribed to them in Alliance's Motion and the Movant's motion.

ARGUMENT

As stated, Alliance Bank incorporates by reference the arguments of the Movants in the Motion to stay the adversary proceedings pending resolution of the Chapter 7 Trustee's Section 727 proceeding. In the interests of judicial efficiency and economy, Alliance Bank will not re-argue the positions offered in the Joint Memorandum, other than to state in accord with the Movants, should the Court deny the Debtor his discharge, Alliance Bank's, and the other Adversary Plaintiffs', nondischargeability determinations will be rendered moot. As the Movants note, "the resolution of a debtor's entitlement to a discharge should precede determinations concerning the dischargeability of particular debts." 09-005041, ECF #23 at 3. Thus, a stay of the proceedings at this time is in the best interests of all parties as well as the Court.

The Trustee recently requested a second extension of the deadline to object to discharge, and Alliance Bank, along with the Movants, expect that the Trustee will file his complaint within the next month. Therefore, the continuing accrual of litigation expenses for Alliance Bank and the Adversary Plaintiffs is unnecessary. A stay will also be in the interests of judicial economy, as trials for Alliance Bank and the Adversary

Plaintiffs are scheduled to begin in January and continue through the end of May. See Alliance Bank's Motion submitted herewith at 2-3.

WHEREFORE, for the foregoing reasons and the reasons stated in the Joint Memorandum, Alliance Bank joins with the Movants and respectfully moves the Court for entry of an order (i) staying the Adversary Proceedings; and (ii) granting such other relief as may be just and equitable.

Dated: December 8, 2009

GREENE ESPEL P.L.L.P.

/s/Kathleen K. Statler

Larry D. Espel, Reg. No. 27595

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(612) 373-0830

Attorneys for Alliance Bank

- b. Alliance Bank's Memorandum in Support of its Joinder with the Joint Motion to Stay Adversary Proceedings Pending Resolution of Chapter 7 Trustee's Section 727 Proceeding;

c. Proposed Order;

to be filed electronically with the Clerk of Bankruptcy Court through ECF, and that ECF will send an e-notice of electronic filing to the following parties:

wskolnick@skolnick-shiff.com
mburton@losgs.com

3. Because Alliance Bank and the Movants seek expedited relief, in accordance with Local Rule 9006-1 (e), the above documents were also served by email to the following parties:

a. Matthew R. Burton, on behalf of the Chapter 7 Trustee, Randall L. Seaver at mburton@losgs.com

b. Stephen Grinnell, on behalf of Chrysler Financial Services Americas LLC at stephen.grinnell@gpmlaw.com

c. Monica L. Clark on behalf of U.S. Bank National Association at clark.monica@dorseylaw.com

d. William R. Skolnick on behalf of Debtor Dennis Hecker at wskolnick@skolnick-shiff.com

e. Joseph W. Lawver on behalf of Carlton Financial and GELCO Corporation at jlavver@messerlikramer.com

f. Brad Sinclair on behalf of Cornerstone Bank at bsinclair@serklandlaw.com

g. David L. Johnson on behalf of Vision Bank at david.johnson@mlcfargolaw.com

h. Connie A. Lahn on behalf of Hyundai Capital America at connie.lahn@fmjlaw.com

i. Sarah Wencil, Office of the U.S. Trustee at ustpregion12.mn.ecf@usdoj.gov

FURTHER YOUR AFFIANT SAYETH NOT.

/s/Kathleen K. Statler
Kathleen K. Statler

Subscribed and sworn to before me
this 8th day of December 2009.

/s/Susan L. Torkelson
Notary Public

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ORDER

This case came before the court on the motion of Alliance Bank and the other movants for an order to stay the adversary proceedings pending resolution of the chapter 7 trustee's section 727 proceeding.

IT IS ORDERED:

1. That Alliance Bank's Motion to join with the other movants' motion is **GRANTED;**

2. That Alliance Bank's adversary proceeding, Adv. Pro. No. 09-05038, along with the other movants' adversary proceedings, shall be stayed until an additional scheduling order is entered by the court.

Dated: _____

Robert J. Kressel
United States Bankruptcy Judge